

RESPONSE TO CONSUMERS FOR AFFORDABLE HEALTH CARE
FOUNDATIONS WRITTEN COMMENTS IN OPPOSITION TO MAINE MEDICAL
CENTERS CERTIFICATE OF NEED APPLICATION TO BUILD AN
AMBULATORY SURGICAL FACILITY

Applicant Has Not Met Its Burden of Proof That the Proposed Project Will Substantially Address Specific Health Problems As Measured by Health Needs in the Area to Be Served by the Project.

CONU Response:

Consumers for Affordable Health Care Foundation (Consumers) believes that MMC has not demonstrated a public need for additional OR capacity in the Portland area. Consumers cites the Bureau of Health Opinion Letter dated September 28, 2004 where Dr. Dora Mills, Director, states in regards to the Mercy Hospital decision “There is no evidence given that the entire health system of southern Maine is in need of additionaloperating rooms in order to meet the health needs of the population”. In addition Consumers cites two recent decisions regarding the rejection of the Portland Surgery Center and the Mercy hospital decision as an indication that there is no need for additional OR’s in the Portland area. CONU disagrees with Consumers interpretation of these decisions. A review of the Portland Surgery Center decision reveals that the Commissioner rejected the Portland Surgery application because the applicant did not provide sufficient evidence indicating the need for additional freestanding OR capacity. The Commissioner did determine the number of operating rooms needed in the Portland area. The Mercy Hospital application was approved because it was determined that Mercy had provided data supporting its claim that a new OR was needed. CONU disputes Consumers’ assertion that the Commissioner only approved the OR because it would not be operational for four years. Contrary to Consumer’s position that volume is not “a reliable method for determining need,” CONU believes that MMC data showing a large increase in volume and an unacceptable level of OR utilization proves the necessity of additional OR’s in the affected communities. The MMC data clearly shows that the proposed OR’s are being constructed to meet an existing and growing need. In addition a review of the floor plans for the 56,500 square foot ambulatory surgery facility does not indicate any unused or “shell space”.

Applicant Has Not Met Its Burden of Proof That the Proposed Services Are Consistent With the Orderly and Economic Development of Health Facilities and Health Resources for the State. Applicant Forecasts Significant Underutilization of the Proposed Facility. When the 1,000 Endoscopy Cases Per Year Are Removed From the Forecast, The Underutilization Becomes Substantial. Such Underutilization Creates Excess Capacity The Costs Of Which Are Born By Consumers, Employers, and Other Payers.

CONU Response:

The utilization statistics cited by Consumers fail to include the Bramhall OR’s as part of MMC’s overall OR efficiency. Contrary to Consumer’s opinion this fragmented approach

is not an accurate method of calculating efficiency. The purpose of this project is to move outpatients away from the inefficient Bramhall campus to avoid delays and cancellations in surgery, avoid disruptions to surgeons and staff, remove threats to patient safety, increase OR ability to address emergent and urgent demand and lower costs to the health system. When the Bramhall campus is included in statistical measurement OR efficiency rises to 83% which still exceed industry guidelines. Consumers also attempted to remove 1,000 endoscopy cases from efficiency measures. This is not appropriate since the new facility will serve endoscopies performed by gastroenterologists on an outpatient basis while surgeons at Bramhall would still perform inpatient endoscopies.

Applicant's Forecasted Underutilization Raises Concerns of Inappropriate Utilization.

CONU Response

MMC's utilization rates when measured appropriately are higher than industry averages (see above). Consumers again states that there is no concrete evidence that there is an unmet need for surgical services. CONU disagrees....actual utilization data is the best evidence of need (see above). Finally Consumers suggested that wait time for non-emergent care could be expanded. Delays and reschedules would inconvenience consumers and disrupt their treatment making this option unacceptable.

MMC's ASC Is Inconsistent With The State Health Plan.

CONU Response:

Consumers contends that the BOH assessment "supports a determination that the MMC ASC application is inconsistent with the State Health Plan, and as such, does not meet the statutory standard in 22 M.R.S.A Section 335(1)(A)." They further state that out of a maximum of 30 points, the Bureau assigned only five (5) of the thirty points to the project. Not only was this score the lowest of the four projects reviewed, it was also the lowest for each of the three criteria accorded the highest priority for achieving the State Health Plan under the CON Rules. It was the only project to receive only one point for meeting the Dirigo Health price and cost targets. The finding of the Bureau should be accorded great weight." CONU agrees that the BOH findings should be accorded great weight. They are an integral part of our analysis. However we disagree on Consumers interpretation of the results. BOH never indicated that this project should not be approved. Each of the four projects in the review cycle were given positive results in the BOH analysis.